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Patients' Rights: Republicans Target the Problem; Democrats Target the Politics

Republicans target their patients' rights bill to those people in employer-provided plans that are exempt from state laws requiring patient protections, while the Democrats' plan, Kennedy-Care, would cover plans that are subject to state regulation — effectively preempting states' rights to protect and to find innovative solutions for their own citizens in ways best suited to their locales.

- ▶ **The Republican bill addresses the problem, while Kennedy-Care addresses the politics.**
 - **The Republican plan** provides patients' rights provisions to people in plans that are exempt from such laws employed by the states, thus leaving insurance regulation where it historically has been and where it belongs, with the states, which are closer to the needs of their own citizens.
 - **Kennedy-Care** regulates everyone in private plans covered by the federal law known as ERISA, even those regulated by states with superior (and localized) healthcare protections. Kennedy-Care preempts essentially every state law and regulation related to patient care, undoing years of work and substituting federal bureaucracy for state experience.
 - **For example**, Florida law requires plans to allow patients who are concerned about skin cancer to see a dermatologist without having to take the time and trouble of getting a referral. Do people in North Dakota want or need that protection with its associated costs?
- ▶ **The Republican bill implies an understanding that states don't want and can't afford unfunded mandates. Kennedy-Care underscores the Democrats' belief that there can never be too many regulations, mandates and bureaucrats.**
 - **Republicans** remember how Americans rejected Clinton-Care, with its 818 new mandates and regulations [according to Multinational Business Services (MBS)].
 - **Kennedy-Care** imposes 359 new mandates — 196 on private plans and issuers. Bill language contains the word, "require," 108 times; the bill requires 3,828 new federal bureaucrats [says MBS].

- ▶ **The Republican plan recognizes that regulations cost money and so decrease access to healthcare, but Kennedy-Care will almost double patients' estimated premium increase — up 9.5 percent from this year's costs, says CBO.**
 - A GAO report found state mandates accounted for anywhere from 12-to- 22 percent of the cost of insurance premiums. This means Kennedy-Care at best adds an extra layer of regulation and cost, and at worst, undermines well-thought-out state motives.
 - Costs decrease access: For every 1-percent rise in premium costs, 300,000 people lose coverage.
- ▶ **Republicans want to preserve traditional states' rights regarding insurance regulation, but Kennedy-Care puts the same bureaucrats who can't operate Medicare in charge of private health plans.**
 - According to the Inspector General for the Department of Health and Human Services, Medicare lost \$23 billion to fraud, waste and abuse in 1996, an amount equal to 13 percent of its total expenditures.
 - The agency in charge of Medicare, the Health Care Financing Administration (HCFA), can't handle its current responsibilities: Senator Kennedy fought for money to pay an additional 200 HCFA bureaucrats as "emergency" money earlier this year.
 - Yet Democrats want those same bureaucrats to oversee insurance for 124 million more Americans, even though they can't adequately handle overseeing the 38 million in Medicare they're already charged with serving.
- ▶ **Republicans' goal is bettering the health care of those Americans who may in certain cases need federal intervention. Kennedy-Care is a suggestion that the Democrats' goal is controlling the healthcare of every American — the same goal that eluded them in 1994.**
 - Here is just a handful of duplicative requirements that would result from Kennedy-Care: internal review of denied claims; consumer grievance procedure; and ban on "gag rules" (every state already has these in place); "prudent layperson standard" (29 states have this); and seeing an OB/GYN without a referral (39 states have this).
 - States aren't running from their protective responsibilities. On the contrary, they're continuing to enact laws that meet their citizens' needs and are sure to do more in the near term. Tie their hands and they can't innovate, much less respond to their own citizens' unique needs.

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